

**Consumer Trust Meeting
TRANSCRIPTION
Tuesday 17 July 2012 at 19:00 UTC**

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Participants on the Call:

Cheryl Langdon-Orr - ALAC
Steve DelBianco - CBUC
Michael Graham - IPC
Carlos Aguirre – NCA
Oliver Crépin-Leblond – ALAC
Jonathan Robinson - RySG
Jonathan Zuck - IPC

ICANN Staff:

Julie Hedlund
Berry Cobb
Nathalie Peregrine

Apology:

John Berard

Coordinator: ...this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Nathalie Peregrine: Thank you very much, (Kelly). Good morning, good afternoon, good evening. This is the CCI call on the 17th of July, 2012. On the call today we have Steve DelBianco, Carlos Aguirre, Olivier Crépin-LeBlond, Jonathan Zuck, Jonathan Robinson and Michael Graham. We have an apology from John Berard.

From staff we have Berry Cobb, Julie Hedlund will be joining us very shortly and myself Nathalie Peregrine.

I would like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you.

Berry Cobb: Great, thank you, Nathalie. Welcome all. Appreciate you joining today. We'll - I'm going to kind of lead the group for just a few minutes until we review through our agenda and our working group schedule. But basically we've got two primary initiatives. First is to find a replacement for a working group chair. And then once we get that resolved then we can move on in continuation of the public comments specifically around the competition section of our draft advice letter.

So before we get started in the agenda I just - I'd like to call your attention to our proposed schedule. Basically we've outlined today the 24th and the 31st to complete the review of the public comments. And from there construct the final advice letter and the final review across the working group.

And hopefully by the 7th of August, which would be our last meeting, finalize the advice letter and submit that over to the GNSO Council. All of which is subject to change depending on the complexity of the comments that we're about to review and changes to the letter. But hopefully we can maintain that target of 7-August.

So with that in mind we'll go ahead and move on into the working group chair. I think everyone's aware that Rosemary was forced to step down from chair given personal reasons. And so we need to determine who will take over her role.

We've reviewed internally in terms of the procedures for change of working group chair. And they're pretty straight forward. Essentially we'd be looking for any nominations or volunteers to accept the role and then of course

approval by the working group. And once we've achieved that then we'll have John forward a note over to the GNSO Council stating that there has been a change.

And everything that we reviewed internally there is no requirement that the chair belong to the GNSO as pretty much any working group is an open forum for anyone to participate in. So with that in mind I'll open up the floor. If anybody on the call is interested in taking over this role or they have suggestions on how we should proceed.

Jonathan Zuck: Well, Berry, just to fill the vacuum here. And this is Jonathan Zuck. I'd be happy to put my name forward to push this over the finish line if that's helpful. I don't know who else has expressed interest along the way but given the pin drop silence on the call if it would be helpful for me to take this I'm happy to do it.

Berry Cobb: Okay great. And, yes, with that in mind I - just throw a little bit of sugar on the desert here, you know, with our last basically four meetings it's not going to be a huge - it shouldn't be a huge challenge to fill the role. You know, we're just basically trying to wrap up and put the finishing touches on the advice letter so it shouldn't require a whole lot of extra effort. And certainly ICANN staff will pick up the slack where necessary.

Steve DelBianco: Well, Berry, this is Steve. I don't think Jonathan needs any sugar on his cake; he shouldn't be needing at all. But I think he's a great...

Berry Cobb: So I hear that as a second. Olivier.

Olivier Crépin-LeBlond: Thank you very much. It's Olivier Crépin-LeBlond for the transcript. I think Jonathan (unintelligible) be appropriate in time. I'm - well, you know, (unintelligible) the work of the working group. And I personally also (unintelligible) my bandwidth is totally nonexistent at this point in time and probably even worse during the next four weeks.

In fact some of the meetings I might have to miss but if Jonathan is able to pick up the work where it is then got my full support.

Berry Cobb: Great, thank you, Olivier. So if nobody else has any objections to Jonathan taking over chair role then I move that we move this forward and continue on with the public comments review. And I see a lot of checkmarks. All right, great. Close - I'll definitely take the action item to inform John Berard to pass over the note to the Council. And let's get busy.

So with that in mind, as I mentioned, we're going to be reviewing through the competition section of the draft advice letter. Basically this kind of dovetails with what you see in Adobe Connect screen now for those that don't have big monitors, which is Number 49. And it was the tail end or the last comment for consumer trust with the United States government.

And there was kind of like some carryover from that discussion that leads us into competition. And so in respect to that Steve has engaged with a couple of the stakeholders there to obtain further clarification about some of their metrics - or some of their suggestions for metrics around competition. And so with that I'm going to turn it over to Steve.

I don't have - there's a separate document that I included in the email distribution list which was labeled, I think, Question 25 note with today's date appended to it. What I basically did is this was an original assignment that Steve had done to develop some of the metrics that the USG had suggested and what the working group's response was to those.

I had copied that into our master public comment review tool. And when I sent out the email I had updated that separate attachment to also include a response from the USG. So really the only thing for that separate attachment is just the USG response.

Any of the other comments in there you should overlook - or most of them have been resolved. And at the very bottom of the public comment review tool will be that section on how the working group deliberated on those particular metrics or Q25 and as well as there will be the appended response from the USG.

But before we go into the actual line items - or the first ones for consumer - or for competition let me pass it over to Steve and he can maybe give a better introduction.

Jonathan Zuck: Berry, before you dive in - and I don't want to take too much time with this. These are just a couple of process questions. One is that we were going to try to engage with Paul Redmond over in Compliance at some point to get some understanding about the metrics we were setting that involved Compliance and find out if they were realistic.

I know we've been kind of using you as a sounding board in terms of what kinds of data staff could track. But do you have enough of a window into Compliance that you can interface directly with Paul? Or should he become engaged?

And then the other question I had was what process do we need to follow internally to address Wendy's email?

Berry Cobb: Okay. This is Berry. The first question; Compliance is engaged secondarily. They're not participating on this call today but they are aware of the metrics. And in parallel to the advice letter ICANN staff is developing what we term as staff implementation notes.

And within there it will be a more detailed sizing as to the proposed metrics, what ICANN can do and can't do today as well as sizing the future endeavor of generating this framework of metrics.

So essentially the staff implementation notes are being developed internally. It'll be reviewed internally across the various departments of ICANN. And the key message here is it's not just compliance that will - that is contributing to this metrics platform. It's also going to require perhaps the legal team as well as the registry and registrar liaison team.

And one recommendation that I can share that's still being formulated within ICANN is that potentially this overall package or this overall platform would not (unintelligible) necessarily with the Compliance Department but would be a separate team that would interface with each of the required departments in terms of data capture and reporting requirements and developing the final platform for the metrics.

And as well as there's going to be some other contributing factors to these staff implementation notes. I'm not familiar with - I'm not sure how much persons on the call are familiar with the 2012, 2013 budget but there are several line items with respect to the new gTLD program and investments denoted in that budget that are systems that will contribute to this overall metrics framework as well as also tying in a portion of this with the strategic - the 2013-2016 strategic plan. The...

Jonathan Zuck: All that sounds good, Berry. I guess - are we expecting any surprises in that report since it's going to be coming out simultaneously or is mostly a how as opposed to an if type document?

Berry Cobb: It's more a how than an if.

Jonathan Zuck: Okay.

Berry Cobb: As for your second question which was it again?

Jonathan Zuck: Wendy Seltzer circulated some...

Berry Cobb: Oh, yes.

Jonathan Zuck: ...concerns that I think, you know, represent a minority view at some level, you know, on the group but I don't know if we should endeavor to include a minority or let her file them as comments - be the first to file comments when these are put up for public comment or...

Berry Cobb: Right.

Jonathan Zuck: But I don't want to just ignore them but at the same time we need to drive the process home.

Berry Cobb: Right. And this is Berry. Several meetings ago we did have this as a specific agenda item to review through some of the concerns that Wendy had outlined. The working group did deliberate on those. Essentially I think that there was no action determined at that point in time however Wendy's most recent submission is much more detailed.

And as I guess kind of an action item to you, Jonathan, is that we should probably engage with her on the list to ask her to join the call to explain the position and let the working group deliberate on it again. And then from there the working group can determine how those comments are going to be incorporated into the final advice letter.

Which, you know, either - I can't say for certain what the outcome will be but it could either, A, change some of the metrics that we have identified today or if the working group feels that the metrics that have been identified are still important that - and should still be considered - then, yes, a minority position can be appended to the advice letter very similar with how ICANN Legal as stated, for instance, about the collection of pricing of domains so that it's an entire package that's delivered to the ICANN Board.

Jonathan Zuck: Okay.

Jonathan Robinson: Hi, it's Jonathan. And - Berry, it's Jonathan Robinson here. I mean, I think I support that approach. I'd strongly encourage that we - Wendy and us - that we try and get Wendy on the call because I have some sympathy with the principle that she's highlighting, you know, the basis of the concern in that we should respect that we - that innovation can come through on the basis of the platforms and we shouldn't constrain our measures of success by assumptions that she's concerned here - in the way that she's concerned about.

That said I feel I need her to explain in a little more detail because the measures that she's talking about I still think are valuable measures of the quality of the operation of the new gTLDs. So it's - I can't fully reconcile her concern, which I - in broad terms which I have some empathy with or think that she has a point with her focus on the details of the metrics.

So in short it would be great to get her on to explain, as you suggest - and how weave that into the work group's output. Thanks.

Jonathan Zuck: All right well I'll reach out to her. I sent an email back to her on the list right away seeking some clarification but I have not yet heard back from her. But I guess I'll continue to try and pursue some clarity with her and/or try to get her to be on a call to explain the position. I mean, obviously we're on a tight timeframe at this point so I'm going to try to do this as expeditiously as possible. But I will - I'll reach out to her and see what we can do to boil this down a little bit.

Berry Cobb: Great. And - great, Jonathan. And this is Berry. Within the email might I suggest that you paste the remaining work group schedule and so hopefully maybe by the 24th or at least the 31st she could attend? And I might also suggest that if she's unable to attend is there some sort of back up that can represent the view that she's trying to post here to the working group so that we can deliberate it in person, which I think is very important.

Jonathan Zuck: Right. Okay.

Berry Cobb: Michael, you have your hand raised?

Michael Graham: Oh not that I know of. That's an accident, sorry.

Berry Cobb: Okay, Steve.

Steve DelBianco: Thanks, Berry. With respect to Wendy's comments at the beginning I found myself sympathizing with her point of view that maybe our trust metrics seek to hold an applicant to their original promises in a way that would constrain innovation by the TLD operator.

And I wouldn't want us to do that. It's particularly important given that of 1900 applicants only a handful were really explicit in Question 18 while the rest were rather limited. And wouldn't it be ironic if we penalized those who are explicit about their promises and purpose and mission and left the others off to do whatever they wanted?

So I agree that we don't want to unduly constrain the innovation that a registry operator does at encouraging new folks to use their TLD in new ways. But then when I read the rest of Wendy's email I would have thought that she would have identified ways in which our trust metrics get in the way of flexibility and they don't.

Instead she articulates objections to the very metrics, the specific metrics, which were designed to prevent an increase of abuse in the new TLDs. And I see it - I see a pretty bright line between innovation and fraud and abuse. And specifically in Wendy's email she lists all of the spam, honey pot, fraud, domain takedowns, compliance concerns. In other words she listed the things many of which came from Olivier, that are specifically in the consumer trust realm.

So this is, Jonathan, for as much for you as for the rest of the team in communicating with Wendy because I cannot be on the July 24 call. But we are - I think we should be happy to put a note to our definition such that slavish adherence to the applicant's original mission and purpose is not the point of trust.

The point of trust was that if they made promises with respect to things like preventing abuse that they ought to be held to those promises and...

((Crosstalk))

Steve DelBianco: ...but we ought to measure whether they honored them. I'm not suggesting we hold people to promises because the contracts don't do that. The registry contract doesn't even reference Question 18. So I didn't mean to say hold them accountable. It's really just measures since that's all our group does is measure.

Jonathan Zuck: That's right.

Steve DelBianco: Thanks a lot.

Berry Cobb: And, Steve, did you have any other...

((Crosstalk))

Berry Cobb: Steve, did you have any other follow up comments or was it just the Wendy?

Steve DelBianco: We're done with the Wendy point that Jonathan intervened with. I would return to your original question to me. But I'll wait and make sure we're done with that topic.

Berry Cobb: Okay great. Olivier.

Olivier Crépin-LeBlond: Thank you very much. It's Olivier for the transcript. And I absolutely hate speaking after Steve because he keeps on taking over things I wanted to say and then I'm left to say so what do I else do I have to say to add to this? I absolutely agree with Steve's point of view.

And there is one confusion I think that is sometimes being made by people who have commented; this working group is looking at defining metrics; it's not looking at defining enforcement. Enforcement will be - or will not be affected by whoever picks up on those - on the results of those metrics a few years down the line.

But I don't think that we should stop this working group from actually designing the ways to track success or lack of success or even just the technical tracking of how new gTLDs are being implemented and how they're being used, etcetera, etcetera.

Having - not having the data is basically preparing the new gTLD process for failure for a lack of being able to track what is going on. And it's certainly putting into big question mark any future rounds because no data will be there to support or not support the continuing enlargement of the new gTLD and the gTLD space. Thank you.

Berry Cobb: Great. Thank you, Olivier. Michael.

Michael Graham: Okay this time my hand is up. But I'll begin by echoing both Olivier's and Steve's comments; I think they are right on point. In reviewing Wendy's comments I was - I'm, one, in agreement that - and I think we all are - that the hope for the new gTLD space is that it will encourage innovation and that there will be innovation.

My thought then was that the innovation, again, since we're simply measuring what has been said against what is actually done rather than trying to set any

strictures that real innovation is coming either in the development of the ideas before there's a proposal for a new gTLD or in one of these more open gTLDs that does not have the restrictions that some of them do.

And so I think that really is where it's happening. The pad of paper analogy I particularly tried to deal with and then I realized well roads are much easier because it's one thing to require someone to tell you where the road is going; it's another to say this road is going to Chicago and then have it go to St. Louis.

All we're doing, I believe, with the metrics is if someone has said that the road is going to Chicago just to see if it really is going to Chicago. And then I was, like Steve, taken aback when I came to the actual metrics that were being questioned none of which seemed to be the type of restrictions on the possibilities of the new gTLDs that I was looking for.

So I hope that we can have a conversation. I know that there is a concern. And my one thought at the end of all of this was that I think we should make clear, perhaps, if we have not already in our letter and comments that this is, as we have said, merely metrics, that it is not an attempt to in any way restrict innovation. And in fact we would hope that the study of the metrics would encourage innovation in an environment that is safe and is vital. Thank you.

Berry Cobb: Great. Thank you, Michael. And Jonathan.

Jonathan Zuck: Yes, this is Jonathan Zuck for the transcript record. But I just want to apologize for bringing this up because I wanted to bring it up as a process question because I think we're all preaching to the choir at some level right now and that the actual substance of her objections we need to try to push the discussion off to when someone is on the call to defend them.

And so I'm in agreement with the last four speakers on the importance of gathering data and as the guy that harps about this all the time. So I really

want to move that we move off of this topic and back into the public comments. And I'll do what I can to get someone - a warm body engaged on one of our calls to go over these in some detail.

Berry Cobb: Okay great. Thank you, Jonathan. And so with that let's jump over into the public comments. And I think I'll turn it back over to you, Steve. And I think maybe you'll tee this up on how we kick off with respect to the USG comments on competition.

Steve DelBianco: Berry, earlier you had on the screen that I needed to draft a statement explaining why we weren't necessarily going to embrace the USG's suggestion; that we measure total cost and total benefit. So I took note of that. If I haven't done that already I'll provide a paragraph for the - for our final advice letter on that.

I did explain it during our presentation to the GAC. And I got no pushback at all from the US government on that. They seemed to acknowledge it's part of the Affirmation so it ought not be part of our charter. I think we dodged a potential problem there. And the good news is we can focus more on the details they brought up.

So now that we're in competition - Berry, is this the first time that our group has done a deep dive into the competition part, which was Page 11 of our original advice?

Berry Cobb: Yes it is.

Steve DelBianco: Okay.

Berry Cobb: And it's - and the comments are separated between statements regarding the definition versus statements regarding the metrics.

Steve DelBianco: All right, and you have Michael Flynn listed up top. But I presume if you scrolled you'd start to see the USG comments come in?

Berry Cobb: That's correct. And that's why I wanted to kick off from that is because it's really a carryover conversation from where we started with Number 49, which was the tail end - the tail end of the consumer trust USG comments. And...

Steve DelBianco: All right...

Berry Cobb: ...in that discussion you had mentioned that you had met with a few there at the USG that wrote the paper and to get clarification about some of their measures. And that was more of what they had to say I believe fell over into the competition camp.

Steve DelBianco: Great segue. You're right, there is some final cleanup we'll have to do back in consumer trust based on the feedback we got from the USG on specific trust metrics like the number of data breaches and who would report them. But we don't need to go into that today; we can do it once we start circulating a print copy for online edits and review.

But the US government broadly put comments into two buckets, consumer trust metrics and then competition. And in the area of competition I'll give you a couple of highlights. They believe that competition benefits have to be measured through an increase in the number of registrations in the new TLDs and lower prices across the board - that competition is supposed to do that. And they also said increased innovation without ever offering anything on innovation.

They do not propose - let me quote - "We do not propose specific targets." Thank the Lord because specific targets on how many registrations, what percentage and price decreases would have been very troubling for us to set. So let's not set targets but rather just measure the data.

So the kinds of data that the USG was looking for on the competition area are weekly stats on the number of registrations, prices (fade), and I guess that would be a low, high and average for the week because every TLD can have differential pricing for different kinds of names.

Traffic on a weekly basis, which is traffic to domains in a TLD if that can be gotten. And if we had weekly data on registrations, prices and traffic I think we could substantially fulfill the data gathering request of the USG in the area of competition. And a lot of that bleeds over into choice as well.

So we should scroll back down to the competition section, Berry, since we're there. I will own getting you a paragraph up there in the pink. But if we get into competition - so I just shared with you the US government's latest thinking and that was as of June 19 - or latest thinking on the competition data gathering which is not quite the same thing as saying goals.

Just so we're all clear when Jonathan - when you go to the mic and say metrics-metrics and metrics are things that we seek to measure they do not imply a goal. Goals are separate and they're additive to the notion of having a metric, right?

Jonathan Zuck: Of course, I mean, the implication is that once you define them in the measure you might try to set targets for it as we've done in some cases. But...

((Crosstalk))

Steve DelBianco: But not all.

Jonathan Zuck: ...concepts. That's right.

Steve DelBianco: Beautiful. So, Berry, if I catch your - I want to make sure I'm organizing this the way that you and Jonathan want to proceed. But if we want to talk about

the definition of competition I do have in front of me what the USG proposed as the definition including the notes. But is that really the right way to proceed right now?

Berry Cobb: This is Berry. I do have the USG comments probably two or three entries down in our public review tool. So we can go ahead and start from the top and wait until we get to them or if you'd prefer we can start with the USG and then come back to Number 50.

Steve DelBianco: No let's just do it in the order you have them.

Jonathan Zuck: Yes.

Berry Cobb: Okay. And this is Berry. I'd just like to kind of dovetail back to what you had mentioned about these metrics of competition from the USG perspective. Certainly prices paid; we have that listed within I believe consumer trust. Of course there is the ICANN legal stance about that which will have to be determined at a later date.

I believe that we have an entry for traffic to domains. We may not have placed - or specifically called out that these be determined on a weekly basis. But the one that - do we have the number of registrations listed anywhere within our metrics? I don't recall that we do. We've got the number of TLDs, registry operators, service providers, etcetera, but have we specifically called out registrations within a TLD?

Steve DelBianco: Berry, this is Steve. On Page 11 of our original advice the sixth metric was relative share of registrations held by new entrants.

Jonathan Zuck: Yes.

Berry Cobb: Okay - okay good.

Steve DelBianco: That would - that gives us this path to say that the source of the data would be ICANN's zone files for new gTLDs. We said it would be moderately difficult to obtain. So we probably ought to add a row to show that it's not just because of new entrants that we want to track on a weekly basis zone snapshots or zone counts to keep track of total registrations.

Now keep in mind that we have a big issue on pricing because the only thing the Commerce Department cares about are retail prices, right? They don't care about wholesale as far as I can tell. And retail prices are only available from the registrars. They're certainly public so I don't think we have to worry about confidentiality.

But if dotBike added 1000 registrations this week how do we get the prices for those registrations? Keep in mind that you could do the work of looking up the prices on all the different registrars that offer it. But if we only looked at the money conveyed to the dotBike TLD operator that data is known by ICANN because I believe your fees are based on that, is that correct? Are they based on the dollars or just the number of registrations?

Berry Cobb: I believe it's both an annual fee plus registration but I'd need to confirm.

Steve DelBianco: Annual - is the annual fee based on the revenue received by the registry or just set as a fixed...

((Crosstalk))

Berry Cobb: If I recall - this is Berry. If I recall correctly I believe it's a flat fee of \$25,000 per year. And then there's the incremental fee based on the number of registrations. But I need to go back to the Applicant Guidebook to get the details.

Michael Graham: Yes, Berry, this is Michael. That's my recollection. I look at it recently. Above a certain level then it's 25 cents per domain name; it's not tracking the amount paid for or charged.

Steve DelBianco: Great. So that answers - that's not the answer we were looking for because it shows that the revenue side of the flow of new names is not already captured by ICANN. And even if it were it'd be the wholesale revenue from the registry to ICANN not the retail revenue that flows from consumers to registrars.

So we'll have to note in here that there are significant data difficulties associated with weekly capture of prices paid by consumers for registration.

Michael Graham: And maybe...

((Crosstalk))

Steve DelBianco: ...definitions. But - Berry, how did we get here? Because you asked the question, do we already have in our table anything about the number of registrations? I took us over here to show that we did get there because we were going to measure registrations for the new entrants. Should we return to the definition conversation?

Berry Cobb: Exactly. Yes, I just wanted to shore that up to make sure that - because I thought we had already them identified it's just matter of packaging them together to present it in that fashion.

Steve DelBianco: Well I would recommend we add a row above that so that we explicitly say that we are seeking to do a metric called registration volume on a weekly basis for all TLDs and then another row that says consumer prices paid for new registrations. Registrant prices - I shouldn't use the word consumer - registrant prices paid for new registrations on a weekly basis on all TLDs.

For the data source there we have to put a big question mark until we figure this out. When it came - yes, and traffic was the other one I mentioned that the USG was interested in.

But let's get back to the definition table. And I think what you've pasted in here is Michael Flynn's comment.

Berry Cobb: Steve, hold on just one - Olivier, you got your hand raised?

Olivier Crépin-LeBlond: Thank you. It's Olivier for the transcript. I agree with the discussion here that it's going to be very hard to get a hold of all of those details. This would - it would require significant costs - well significant work to be able to survey the retail pricing of each one of the domains.

However I am - I wouldn't say confident but I'm sure that some independent organization, if not even for a profit, might run a system in the same way as in the airline industry you have organizations like Kayak or Sky Scanner that will be a search engine - a meta search engine, if you want, for flights. You might have a meta search engine for domain names.

And that might even exist already providing a range of costs and details which of course by the very - their very activity means that they would have the data and would be able to share the data for costs of domain names across the whole variety of vendors and registrars, registries and even agents.

So it's - I don't know whether it exists already or whether it doesn't. I'm not involved enough in this or maybe it will bring an idea to someone on this call who might wish to start that. Thanks.

Berry Cobb: Great. Thank you, Olivier. So from this point forward we'll follow our typical format. I'll read the comment and then open it up to the working group for a deliberation.

The first comment here for competition of the definition is from Michael Flynn. "Between the final draft of the advice letter and ICANN's February 23 posting there was an interesting switch in emphasis that suggests ICANN now is trying to minimize the role of competition as a justification for introducing new gTLDs."

"The title of the final draft advice requested by ICANN Board regarding definitions, measures and targets for competition, consumer trust and consumer choice has now become draft advice letter of consumer trust, consumer choice and competition - emphasis added."

"This potentially is significant because it is competition that is the necessary condition; the guarantor of other values, consumer trust and consumer choice, that ICANN seeks to advance and evaluate. And it was ICANN's inability to provide a sufficient competitive justification for its gTLD expansion that has drawn the fire of many stakeholders including the US Department of Commerce and Justice."

"The existence of genuine competition properly defined and understood is a necessary condition for the realization of consumer trust, consumer choice and innovation. It should be the primary concern."

"Competition can only - can be assessed only within the context of a properly defined relevant product market as the term is understood by economists, competition authorities and courts to comprise the product and the producers that are deemed by consumers to be acceptable substitutes and exclude those products that are not seem as potential substitutes."

"Competition occurs only between and among goods including services that are substitutes. Producers of complementary goods do not compete with each other."

And I think that was the tail of the comments there.

Steve DelBianco: Berry, can I ask you your interpretation. I don't know Mr. Flynn. But is it - did he believe that the switching of the order of competition, trust and choice represented a change in focus of some way and he's suspicious that we've misunderstood the Affirmation?

Berry Cobb: This is Berry. I could definitely partially agree with that. Certainly he's calling us out for changing the order. But I mean, from my perspective I think that we've still been true to all three definitions. And of course we came up with our own order based on the results of how the conjunction between - or the overlap between competition and choice.

Steve DelBianco: That's exactly right, Berry. We put them in that order so choice and competition were close together.

Jonathan Zuck: That's right.

Steve DelBianco: So I think we should note that explanation. But we don't have to do anything more with this than note that explanation and then say that we would prefer that our advice be judged on the merits of whether competition is given adequate attention in this, our final draft advice once we get there.

Berry Cobb: Okay any other comments with respect to this comment? So basically we're taking note of it within the public comment and there's no recommended action at this time. All right great.

We'll move onto 51. This is also by Michael Flynn with respect to competition. "ICANN should follow up on the suggestion by Dennis Carleton, a leading authority on competition, economics, that ICANN itself - hired by ICANN to assess the economic impact of the proposed new gTLDs that the competitive significance of the new gTLDs should be measured by their success in competition with dotCom, dotNet, dotOrg for new registrants with second

level domains and that this could be done for the gTLDs such as Biz, Info and others introduced by ICANN since 2000."

"He - Dennis - argued that that's evidence of the competition generated by new gTLDs would be their ability to induce de novo second level domain registrants to register under one of the new gTLDs rather than Com, Net or Org."

Steve DelBianco: Berry, this is Steve. I would recommend we show under recommended action that we have added a metric for weekly volume of new registrations in every TLD. We already discussed that as something we would do for the USG.

Thoughts on that from the rest of you?

Jonathan Zuck: Agree.

Michael Graham: This is Michael for the transcript. My only question is - and I'm not sure that we've dealt with this before - how we factor in or should we factor in those domains - gTLDs - which are being opened specifically as closed domains rather than open domains where second level domains are going to be registered. I'm just not sure how that comes into our picture now.

Steve DelBianco: Next one, right, Michael? You're good with the next one?

Berry Cobb: And this is Berry. I guess to kind of answer that - a certain subset of our metrics we've delineated the difference between an open TLD versus closed or perhaps single registrant TLDs and that some of those metrics would not consider them in the case when trying to gauge - I believe this is really discussed more up in consumer choice or trust - but that we would isolate those that would influence some of those numbers.

And I think if anything that's kind of the next task for the future review team is to take a harder look as to, you know, I guess you can almost want to Venn

Diagram the different types of TLDs for each type of metric and as to what types of TLDs would be included in that metric or not. Steve.

Steve DelBianco: Thanks, Berry. Okay when I implied that we would invent a metric for weekly capture of new registrations I should have said that along with each data point the attributes of the registry, TLD, would be carried over. So if you have a data point that says dotBike got 1000 registrations in the third week of April 2013 coming along with that is the fact that in the third week of April 2013 dotBike was a single registrant or a community TLD or a standard TLD.

So those attributes of the TLD are captured with the snapshots of weekly registrations so when the data is analyzed the data can look at just the open public, standard; it could look just at the communities; it might look at the community and publics and thereby exclude data from single registrant TLDs.

So we've - some of these things go without saying for a database guy but we ought to put it in our matrix so that they understand that any weekly capture of data would also capture the attributes of the registry at that point in time such as whether it was operating on a community basis, a standard basis or a single registrant.

That's not a permanent designation. A single registration TLD could change to become a multi-open TLD at any point it wanted to. That's why we have to capture it as we go forward in time.

It brings to mind though an important distinction is that ICANN's only really handling second level registrations in TLDs and has really no significant jurisdiction over third and fourth level registrations that occur.

So if AT&T did a Canada.AT&T and allowed businesses to register to the left of Canada.AT&T that's not in the ICANN zone files that's in AT&T's zone file or Canada.AT&T's zone file. So I don't think we can go much further than second level registrations without a significant data gathering effort and

getting access to what is proprietary data that is outside of the realm of ICANN's contracts.

What's everybody think about limiting our scope to second level and not going any further to the left?

Jonathan Zuck: This is Jonathan. I think by definition we have to limit it to the second level to things that are under the purview of ICANN contracts.

Jonathan Robinson: It's Jonathan Robinson. I agree.

Steve DelBianco: I had hoped that I would be able to say it across the board but there is one or two instances in the Guidebook where the registry agreement does impose conditions on the TLD operators for levels below to the left. And mostly where I saw it - and Jonathan Robinson can help me on this - is country names. Is it - the rules about country names requiring permission do not stop at the second level; it's the second level and all subsequent lower levels.

But apart from that I would look to the contract parties on the call to clarify that ICANN just does not have anything to do with what a second level operator does with everything to the left of the dot.

Jonathan Robinson: It's Jonathan Robinson. I think what you're referring to there are restrict - there are a number of restrictions that might be placed on what can be registered at the second level and by implication the third level there under. So for example the ISO country codes couldn't be registered at the second level and therefore you couldn't produce third level registrations under them.

I think apart from that, to the best of my knowledge, there is no other restriction on what takes place at the third level.

Steve DelBianco: Well, yes, and that one does work if Canon did photographers.canon and then decided to put USA.photographers.canon or

Canada.photographers.canon strikes me that Specification 5 prevents that without the permission of those respective countries.

But I hope you're right if that's the only instance we should be affirmatively state that when we are measuring the registrations - this is that new metric on the number of weekly registrations. Do we need to say the number of second level registrations? I know that we haven't said that throughout our entire advice letter, we always just said registrations on the assumption that that meant second level.

So maybe we put a note somewhere in the report that by registrations we are only looking at second level. What's everybody think of that?

Jonathan Zuck: Agree.

Michael Graham: Yes, Michael here. I think I agree with that.

Steve DelBianco: Great. So, Berry, on Item 52 do we have any recommended action for Item 52?

Berry Cobb: I think you mean for 51. No, I've noted the working group responses to it and stating that a new metric was added which will actually be below this when we get to the USG comments. But the recommended action right now is not - for this one.

Steve DelBianco: Right but, I mean, if this guy Flynn sees that one way we answered his concern was to add the metric and if the recommended action shows up two places, right?

Berry Cobb: Well I'm - within the working group response I'm pointing to the recommended action where it will exist below...

Steve DelBianco: Right.

Berry Cobb: ...in the document just because of the order of these.

Steve DelBianco: Got it, Berry. And would you just please make a note somewhere so we don't lose it that we need to add a note to our document - it might even be in the notes under the definitions is that when we speak of registrants and registration speaking of second level and not levels below the second level.

Berry Cobb: Got it. Okay moving on to 52. This is also by Michael Flynn. "Competition is defined as the quantity, diversity and the potential for market rivalry of TLDs, TLD registry operators and registrars." He's actually referring to what is our most recent definition.

His comment is, "I have no idea where this came from but as stated it's naïve, incomplete and unhelpful. An increase in the number of gTLDs hoping to sell second level domains to registrants does not in of itself amount to an increase in competition. And please, what does the potential for market rivalry mean?"

Steve DelBianco: I have a proposed answer is that the potential for rivalry begins with the introduction of new competitors such as new TLDs. And the quantity and diversity of these new competitors is a necessary prerequisite for the competition that is exercised once consumers make choices about where to register their domain names.

And I would leave it at that. We believe that you have to measure who's allowed in the market, who enters the market and that's a separate measure than the outcome based measure of wow, are the dogs eating the dog food? Are new registrations increasing in the new TLDs? Are prices coming down?

We're going to handle all that through separate sets of metrics. But when it comes to the definition we are measuring not only the potential for rivalry but maybe the actual outcomes.

Remember the USG proposed that we change our definition of competition as the actual or potential market rivalry - the actual or potential market rivalry and when you get to the actual rivalry that's measured by registrations and prices. The potential rivalry is measured by figuring out, wow, we have a lot of new competitors, a lot of new entrants. They're in different scripts, different parts of the world.

Berry Cobb: Olivier.

Olivier Crépin-LeBlond: Thank you. It's Olivier for the transcript. You might wish to word it as a wider offering by an enlarged number of suppliers would - is bound to bring more competition. And so - and leave it at that basically.

Berry Cobb: Okay I've taken down a couple of the notes - the working response. I'll go through the MP3 to clean up some of my notes. But I had taken that there's no...

Coordinator: One minute remains.

((Crosstalk))

Cheryl Langdon-Orr: Okay.

Berry Cobb: Nathalie, I take it you got that?

Nathalie Peregrine: Okay. Moving on to 53 then. This is from INTA. "The definition of competition, similar to our concern with the definition of consumer choice, we are concerned that the definition of competition focuses solely on the diversity of end marketplace for TLDs and not competition on the Internet itself."

"The proper focus for competition is more than just an increase in domain names and registries. The quality of competition resulting from new gTLDs

should also be taken into consideration in the proposed analysis. For instance there should be an analysis on the number of dead links and redirects of second level domains in newly delegated TLDs; development of baseline values."

"The CTWG advise requests that the ICANN staff develop baseline values for any measure that applies to the pre-expansion gTLD space so that future targets can be stated in terms of improvements relative to present performance."

"First we are somewhat concerned that the request only refers to staff developing a baseline which can be used to show improvements relative to present performance. This presupposes that there must be improvement and could be taken at a later time as evidence of bias in both the metrics and baseline values."

"We believe it would be better if improvements were (unintelligible) changes or some similar nonbiased term (second) in order to be meaningful both the baseline values and the statistics used in the metrics must be based on empirically similar data and utilize the same needs for determining and comparing the data. This should be expressly noted in both the requests of the staff and advise."

Michael Graham: This is Michael for the record. Basically at this point it boils down to one recommendation which is the changing of term improvements. A lot of the early portion of that comment I think we have dealt with. This was of course a comment relating to the advisory letter which, as we've been going through the various metrics a lot of this has already been addressed.

But our concern was two-fold, one, a bias in the language and, two, just clarification for our benefit and I guess for the benefit of others not involved in the working group clarifying that all these measures are being made based on and utilizing the same databases and analyses.

Steve DelBianco: Michael, could I answer that? This is Steve.

Michael Graham: Certainly.

Steve DelBianco: Yes, thanks for the clarification. And a lot of INTA's concerns in this area were reflected in the working group's earlier changes that we made under the choice metric where we tried to refine the fact that a simply new registration doesn't exercise choice if it's a redirect or a dead link or what we also call a duplicate.

So in the same respect that choice would reflect that that way when it come to competition do we want to do the same analysis? Because these weekly metrics on new registrations are simply measuring a new registration. In the first week that a registration is new - it might well be a dead link or a redirect even though the registrant fully intends to flush out the site with new special content later on they don't always do that right away. They might register way in advance of putting up special content.

So, Michael, I don't think we should modify our new metrics on weekly registrations to try to dive in and figure out how many of them were dead links or redirects because it's too early to tell. Would you be content if to answer this question we pointed back to the fact that we've modified our metrics under choice to try to discern differences between registrations that are actively being used versus used for new content versus those that are simply redirects, dead links or duplicates.

Michael Graham: Michael again. Yes, that would be excellent. As I say this was a comment that Berry drew in relating to the letter itself and not the metrics because it was dealing with the competition portion of that letter.

However I think you're entirely right that the metrics that we devised within the choice section really do deal with that issue of redirects and dead links.

And the weekly test of the number of new registrations will deal with the competition.

I am not clear on - and, Berry, perhaps you can tell me - on revisions to the definition itself if the term improvements is still in there or if we have already made that change to some more unbiased language?

Steve DelBianco: Michael, I don't remember the word improvements being in our definition at any point.

Berry Cobb: Currently - this is Berry - we have not modified the definition of competition at this point so it still states, "Competition is defined as the quantity, diversity and the potential for market rivalry of TLDs, TLD registry operators and registrars."

Michael Graham: Okay that's nonbiased then, that's fine.

Steve DelBianco: And that's what I thought you might say, Michael. And, you know, the USG wanted to strike out quantity, quality and diversity and I don't want to give those up as easily because even the USG agrees that they matter. But they put them in as a subsequent sentence.

And I think we really are looking at quantity, quality, diversity and the potential and actual market rivalry. And we're really close. By just adding the word - and actual - after the word potential we're pretty close to what the USG asked for. And I hope that our modifications...

Michael Graham: Oh...

Steve DelBianco: ...to the choice metrics will make - will make you happier about trying to discern true use from nominal registrations that redirect or dead link.

Michael Graham: Right. And let me go back. I'm just looking at this again. I guess - and I missed this. This is referring to language not in the definition but in the advice itself in the advice letter in which it stated that we're requesting that the ICANN staff quote, develop baseline values for any measures that applies to the expansion of gTLD space so that future targets can be stated in terms of improvements relative to present performance, end quote.

And that's within the letter itself. And the comment from INTA is simply by including improvements there in saying what we're planning on doing we're already biasing - or we are apparently biasing what it is that we're coming up with. That was the language the letter itself.

Steve DelBianco: Michael, this is Steve. Then I think I understand what you're saying. And the Affirmation uses the word - whether the introduction of expansion has promoted competition, trust and choice. So they use the word promoted.

And maybe we should have just stuck with that word as opposed to the word improvement because the word improvement, as you say, might imply some relative comparison either contemporaneously to the legacy or looking historically to prior performance.

I guess the word promoted is less loaded because it can mean - well, it can mean any of those things. Would you prefer we change the language back in the report to promoted competition as opposed to improved?

Michael Graham: Well, I'm not looking at the promoted competition I'm looking at terms of improvements relative to present performance. And I guess we need to pick that out in that letter which of course I don't have in front of me.

Steve DelBianco: Do you know where it is in the letter? I'm looking at it now.

Michael Graham: Yes, hang on, let me look.

Berry Cobb: I think it's on the bottom of Page 2 at least with respect to ICANN developing the baseline data

Steve DelBianco: I don't see the word improvements yet, I'll keep looking.

Berry Cobb: Yes, I just did a global search - oh, there we go. The - I think the instance that Michael is talking about is on what I consider Page 7, advice on measures and three-year targets for defined terms, second paragraph.

((Crosstalk))

Steve DelBianco: So in that paragraph, Michael, we had written it as an example because the Board asked us for three year targets and we said that for some of our measures an appropriate target could be an improvement on performance over the pre-expansion gTLD space. For other measures such as URS complaints there's no equivalent data in the pre-expansion environment.

This was an explanatory paragraph. It's not in response to the Affirmation of Commitments; it's in response to the Board resolution which added this call on us to do three year targets. So we explained in our advice that sometimes targets will measure an improvement vis-à-vis the existing or vis-à-vis historically.

((Crosstalk))

Steve DelBianco: ...believe we need improvement out there.

Michael Graham: Right, you're referring to the second paragraph. I guess the change that we were proposing is actually to the third paragraph where it basically says it might show an improvement, it might show something else and then the third paragraph is simply the working group suggests that the Board ask the staff to develop baseline.

And there that's the place where we were looking thinking if we're putting together the baseline to show improvements just by saying that we have evidenced a basis for criticizing the study whereas if we use the term changes then that goes back to the...

Cheryl Langdon-Orr: Yes.

Michael Graham: ...second paragraph where you've clearly said already it may be an improvement, it may be something else. But down here where we're saying this is what we'd like the staff to do, if we'd like the staff to put together these so that they'll show improvements is one thing; we'd like to actually show changes.

Steve DelBianco: Well..

Michael Graham: And that was simply the suggestion to change improvements to changes.

Steve DelBianco: Speaking for myself I don't care whether that word is improvements or changes on Page 6 of our advice. Anybody else have a concern?

Michael Graham: And thank you for finding that, Berry.

Cheryl Langdon-Orr: Can I...

Berry Cobb: Is somebody trying to speak?

Cheryl Langdon-Orr: Yes. Just Cheryl. I'm just suggesting rather than just switch out improvements to changes make sure it's to any changes.

Michael Graham: Yes, that would be fine, Cheryl. That reads better.

Steve DelBianco: Great, I think this takes us to 54 then.

Berry Cobb: Okay and just real quick, Steve, you had also mentioned about adding and actual to the definition of competition that we have in our draft advice letter?

Steve DelBianco: Let's save that for a discussion of the USG's proposed modification of the definition. I think that's coming up.

Berry Cobb: Okay. Okay the next comment is Number 54. This is from the Registry Stakeholder Group. "We also compliment the CCNWG..." which is another name for - I think we've got like seven names going for us, "...on its recognition of the complete competitive landscape."

"In the definition on Page 5 Note 4 the working group states, 'The definition of competition looks at all TLDs not just gTLDs.' The working group recognizes that ccTLDs are competitors to gTLDs particularly where the ccTLD is marketed to registrants around the world ergo dotMe or dotCo."

"However we note that there is only one metric that includes ccTLDs which is the first metric under competition on Page 11. We would welcome further metrics in order to recognize the issue more fully."

I guess this really should have belonged in the - or in the metric section so my mistake.

Steve DelBianco: But while we're on it if we agreed with this - and at least I do - the metric for weekly registration might need to extend beyond gTLDs and cover ccTLDs. Before we agree to do that let me ask you first of all, Berry, whether the ccTLD operators actually report their registrations to ICANN.

Berry Cobb: I will have to find out for sure. I'm inclined to state no. However I think access to that data is possible. For example VeriSign puts out a quarterly State of the Domain Industry Report which includes many, if not all, of ccTLD registrations. So I would say it's possible but I don't believe ICANN gets - has any of it today.

Steve DelBianco: Then I would propose as an answer that as the commenter acknowledged the working group believes that ccTLDs are in many cases direct competition for gTLDs; that the working group would recommend capturing weekly registration data on all TLDs including ccTLDs if that data were readily available to ICANN.

Cheryl Langdon-Orr: Cheryl here. Does it need to be weekly for the ccTLDs? Because they certainly would be more readily available from reporting that happens from registries to registry operators whether or not they're one in the same thing or not. That tends not to be on a weekly cycle; it tends to be on a bimonthly or quarterly cycle.

Steve DelBianco: Cheryl, this is Steve. Great point and I'm glad you brought it up. We should put here weekly or other regular. The reason weekly came in it was at the beginning of the call was that that the USG, after two rounds...

((Crosstalk))

Cheryl Langdon-Orr: Yes, yes - I - yes.

Steve DelBianco: So weekly or other regular intervals. Make sense, Berry?

((Crosstalk))

Steve DelBianco: ...you don't have to scribble down things that we say because I think that transcript will pick up particulars of that language, right?

Berry Cobb: Yes, doing both. Jonathan, you have your hand raised? Zuck. Jonathan, if you're speaking you're on mute or I can't hear you. One more chance, Jonathan Zuck, you have your hand raised? Oh, he's typing. All right...

Steve DelBianco: Berry, while we're waiting...

((Crosstalk))

Steve DelBianco: ...are there other metrics - all I brought up was the weekly registration data. Are there other metrics in competition that would lend themselves well to also picking up the ccTLDs? And to refresh everyone's memory we only had, you know, roughly eight metrics for competition. It wasn't our biggest section.

We had the quantity of TLDs before and after. That already picks up ccTLDs. So quantity of unique gTLD registry operators; I don't see how that would include CCs. Service providers...

((Crosstalk))

Steve DelBianco: Yes we do, go ahead.

Jonathan Zuck: Oh, sorry. This is Jonathan Zuck - the remaining Jonathan on the call. My only pushback is I don't think that tracking ccTLDs is part of our mandate.

Steve DelBianco: Competition is and to the extent that dotMe, dotCo and other ccTLDs are direct competition the working group already acknowledged that and said that we would want to measure them.

Jonathan Zuck: Oh okay, I mean...

Steve DelBianco: There seems to be a...

((Crosstalk))

Jonathan Zuck: ...they don't represent increases in competition brought about by the new gTLD program obviously.

Steve DelBianco: Well someone made a point - and I don't remember whether it was Costa Rica or in Prague - but that the general publicity surrounding the TLD expansion and the efforts that applicants will make to publicize their offerings will drive new registrants into the market.

And when they seek the name they want they may end up choosing a dotMe, a dotCo, a dotSx, that's a new one that came out. And so there should be some volume pickup in registrations in some of these general purpose open to the public CCs. And I think that's the essence of the registrar's point.

Jonathan Zuck: I mean, it feels like a stretch to me. I mean, I guess whatever data designation that we're tracking alongside that classifies a particular TLD we might want to create something that's called a, you know, something generic or something and track those I guess. But that feels like a stretch but...

((Crosstalk))

Jonathan Zuck: ...try to keep confined on how much we're trying to track that's all.

Steve DelBianco: This is - every week it would result, if it were available weekly, in an extra 270 rows in the new registration table.

Jonathan Zuck: Right.

Steve DelBianco: And I don't think by tracking it we're not implying that they are direct substitutes. We've sort of already gone on record for that. But it's true that some of these CCs are very close to businesses and citizens of that country and others are wide open and others have general applicability to the whole planet like TV, Me and Co.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: So I don't even know if we can designate those that way.

Cheryl Langdon-Orr: And, Jonathan, Cheryl here. With the IDNs be they CC or G that differentiation gets even murkier. So I think we can argue that it is worthy of measuring in both competition and choice.

I mean, we can all give quotes for the existing landscape but for the soon to be changing landscape even the ccTLD community it's - it's affecting the marketplace, in inverted commas, for the individual and grouped ccTLD operators as well. And so they'll actually deliberately in some cases become more like a bona fide competitor to a G.

Jonathan Zuck: And I recognize that that's the case and I don't mean to be obtuse. I guess I'm just - what I'm - I'm a little more hesitant to recognize is the role of the new gTLD program in driving competition from the ccTLDs whether it's in their roman script TLDs or their IDNs. Those are still parallel programs at the end of this.

And again there's no reason not to track data, I guess, but when the review team looks at this it would be ironic if we said oh well the new gTLD program was a success because look at all this competition that came from dotSx, dotMe and dotTv. I mean, that would seem very ironic to me because we could have gotten there a lot cheaper.

Cheryl Langdon-Orr: Jonathan, Cheryl, just in response. Having sat in the boardrooms of the ccTLD world we were - we've moved very rapidly from we couldn't give a damn what you people are doing in the G space to holy moly it's really a major focus.

And everyone's changing the way they're responding even what you would have referred to as those with significant rules-based eligibility criteria. So Australia is now taking for dotAu an entirely different view on our marketing and our approach and indeed our potential for future policy because of what's happened only as a result of new gTLDs.

Jonathan Zuck: Well that's...

((Crosstalk))

Cheryl Langdon-Orr: And that all affects competition and choice. But it's saying from a consumer perspective that affects competition and choice and the (truck) that goes with both of those.

Jonathan Zuck: Okay. I withdraw my objection.

Berry Cobb: Okay, any more comments with respect to Number 54?

Steve DelBianco: Well were there any other metrics - when Jonathan got his voice back I was in the middle of running down Page 11 of our metrics to see if there are any others for which, including the ccTLDs, would improve our acknowledgement the they are potential competitors. The only two I didn't get to was pricing.

I honestly don't see why we would want to go out and gather data on the prices of CCs. But the pricing of CO, the pricing of TV and ME, are they likely to respond to the competition offered by the new Gs? Because if we saw prices go down for dotCo or dotTV, dotMe, dotSx that would be an indication that the new gTLDs did promote competition that benefited registrants. What's everybody think about whether our price data should include CCs or not?

Cheryl Langdon-Orr: Cheryl here, Steve. It's - it should be easy enough to ascertain because to my knowledge at least for a snapshot of and if not 100% of the ccTLD spaces that data already exists. It's a very regular thing for us to sit in boardrooms and have pricing data, comparative pricing data, between other players in the CC and comparing it to G operators as a standard presentation.

So we've certainly go the before stuff happening so it should be capturable - I think it comes in under the, you know, regularly available category though.

Steve DelBianco: All right then let's move onto the next one.

Berry Cobb: Olivier has his hand raised.

Olivier Crépin-LeBlond: Yes, thank you. It's Olivier for the transcript. Actually we should perhaps even say that this price tracking should have started a short while ago already. It was mentioned of dotCo, I've read that recently dotCo has dropped its prices dramatically already probably because the new entrants are coming up. So it's probably...

Cheryl Langdon-Orr: Yes.

Olivier Crépin-LeBlond: ...not the first (unintelligible) that we're going to see. And I guess that some are actually anticipating the - as the rest do not price drop at the very last moment but price drop before it. Thank you.

Steve DelBianco: Olivier, this is Steve. It might also be because they've already skimmed the premium prices during their initial year of launch and they want to try to get more people interested too. I mean, we are well over a year away from the first delegation of a new gTLD so...

Olivier Crépin-LeBlond: It might well be that, yes. And it might well be that others will also be doing this as well. That's something that you've touched on. Will there be premium prices for these new gTLDs? Will there be then less than premium prices later on. Yes - all together yes I'd be totally for expanding to the CCs that are -at least the CCs that are used as Gs. Thank you.

Berry Cobb: Okay moving on to Comment Number 55. This is from the United States government. And they proposed a modification to the definition of competition. And they have listed competition is defined as the actual or

potential market rivalry between various TLDs, TLD registry operators and registrars considering such factors as the quantity, quality, price and diversity of operating as provided by each of those types of entities.

Competition must be assessed together with consumer choice and consumer trust to aid in determining the overall cost and benefit incurred by consumers and other market participants from the expansion of gTLDs.

And they've also included a couple of revisions to our notes. The revision to Note 4, the definition of competition (unintelligible) at all TLDs not gTLDs.

Steve DelBianco: Well - we already had that; all they added was the world potential. The only thing they added...

Cheryl Langdon-Orr: Yes.

((Crosstalk))

Steve DelBianco: ...was the word potential. And we have to agree with that; that's a good addition.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: I think Note 5 is brand new though, Berry, right?

Berry Cobb: The addition Note 5, "Competition leads to more efficient production and provides consumer benefits such as improvements in pricing, operating quality, service and consumer choice."

"However the proliferation of new gTLDs may also impose costs on consumers and other market participants in the form of cyber crimes, fraud, consumer confusion and defensive registrations. And it is not yet certain

whether competition or other controls will eliminate or materially reduce these costs."

"To determine the net effect of the introduction of new gTLDs any cost to consumers and other market participants would need to be carefully weighed against estimated benefits that arise from increased competition."

Lastly their explanation: "Increasing the quantity of TLDs, TLD registry operators and registrars does not necessarily increase competition or market rivalry."

"Accordingly the proposed modification and the new Note 5 are intended to clarify that competition is the rivalry between market participants and may be measured by considering data and other information that will help to show the extent to which rivalry has any effect on such factors as the quantity, quality, price and diversity among offerings provided by those participants."

Serious questions exist as to, one, whether competition among existing TLDs has effectively constrained the exercise of persistent market power by the TLD registry operators and, two, whether market rivalry resulting from the introduction of new gTLDs will prevent or at least reduce the ability of operators of existing new TLDs to exercise market power."

"The modified definition would ensure that the assessment criteria focus on developing information and data to identify and measure the existence and effect of rivalry among operators of existing and new TLD registries."

"Based on these factors as well as others ICANN may undertake a meaningful assessment of whether the expansion of gTLDs has increased competition and whether considering consumer choice and consumer trust this expansion has been of net benefit to consumers."

"Note 4 has been revised to suggest that ccTLDs may be potential competitors to gTLDs because it should not be assumed that ccTLDs and gTLDs generally compete for the same registrants."

"Different TLDs may be attractive to different consumers. And while in some cases the consumer may be equally happy with any of a number of TLDs others may seek a specific TLD or be willing to use only a few possible TLDs."

"The degree to which one TLD is a substitute for another can be evaluated empirically. And it is important to be able to assess the degree of competition between TLDs as part of an assessment of whether competition has been increased through the introduction of new gTLDs."

There is a Footnote 1 back to up here in the explanation that we'll read later if need be. Steve.

Steve DelBianco: Thanks, Berry. I don't think Note 4 deserves any conversation; it's just the inclusion of the word potential and we can accept the word potential. And Note 5 I'm much less certain about. The first part of note 5 I'm probably okay with. It's when you start with the word, to determine the, which is right at the bottom of the screen, scroll up a tiny bit, Berry. Thank you.

To determine the net effect - when you start that sentence off you've implied that our working group accepts the notion that the net of cost and benefits should be determined and can be determined and ought to be determined. And I don't want to go that far. We've already explained why not.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: I believe we could accept Note 5 but stopping after the word "cost" before the words "to determine". What do other folks think?

Cheryl Langdon-Orr: Comfortable with that.

Berry Cobb: Olivier?

Jonathan Zuck: Sure.

Olivier Crépin-LeBlond: Thank you. It's Olivier for the transcript. I'm also comfortable with that. Specifically not because I don't agree with the points that they're making but I just cannot see how one can weigh estimated benefits and costs to consumers and other market participants on a worldwide basis.

We could estimate this to the cost of someone living in Iowa but how would you find out the cost to someone living anywhere else in the world? Are you going to do this for each and every country?

I think there is a - it kind of narrows down the focus into something which actually is not - that is not actually focusable and is actually divergent. You just opened another huge Pandora's box of questions which I don't think we could even find the answers to or having anyone find the answers to. Thank you.

Steve DelBianco: Olivier, it's Steve. I did note in the chat that many of the consumer trust measures like spam and fraud that the ALAC suggested are kind of consistent with the beginning of Note 5. So I want to make sure I understand you, are you comfortable with keeping Note 5 as long as we stop after the word, "cost"?

Olivier Crépin-LeBlond: That's correct, yes. The part I was just mentioning about now was to determine the net effect of the introduction of the new gTLDs. Any cost to consumer and other market participants would need to be carefully weighed. And if any costs to consumers and other market participants is something that I find to be very difficult to do on a worldwide basis. The first part of the note I'm happy with.

Steve DelBianco: Great. Everyone else okay too?

Jonathan Zuck: Yes.

Cheryl Langdon-Orr: Yes.

Steve DelBianco: Great. Let's move on.

Berry Cobb: So in terms of recommended action again I'm going to bring up what you had mentioned earlier, Steve, about adding, "and actual," to the definition because the word "potential" is already used in our current definition.

Steve DelBianco: Right, Berry. Could you bring up our current definition? Scroll to it perhaps? It's here - or maybe not.

Berry Cobb: Yes, it's not in here. Let me...

Steve DelBianco: Oh I could paste it in if you want but...

Berry Cobb: I've pasted it into the chat. So if I recall your previous comment before we got to this comment was, "...and the potential or actual for market rivalry is what I had understood. And now the USG comment Note 4 is specifically calling out or potential. So do I understand it as competition is defined as the quantity diversity and the actual or potential market rivalry TLD - TLD registry...

Steve DelBianco: Berry, Berry, because the definition is different than Note 4. The addition of the word potential to Note 4 is only with respect to ccTLDs being potential competitors to Gs. Completely different issue. In the case of the - you know what I mean?

Berry Cobb: Right. Well they - and when you look back to the...

Steve DelBianco: Go back to the - right.

Berry Cobb: ...they use as the actual or potential market rivalry. So that's where I'm getting confused about.

Steve DelBianco: Right. So let's leave those four alone. You can add the word potential to Note 4 because it's really just with regard to CCs. They added one word to our note.

But returning to our core definition, I'm not - speaking personally now, I'm not as anxious to expand and accept the entire long sentence on competition because it really just drags competition into consumer trust and choice.

So my preference would be to accept what is a good improvement and that just looking at potential rivalry isn't so helpful. Because if you have potential rivalry and registrants don't register, the dogs don't eat the dog food, consumers don't go there. Then I guess you really haven't delivered on competition. You've delivered the opportunity for competition but not the competition.

So the word actual has got to make its way into our definition. And the USG had proposed the word actual putting potential into parens. And looking at Berry's chat in the lower left hand corner, I would propose we say and the potential or actual market rivalry. So the word F-O-R gets replaced with the word or actual. I'll paste it in.

Michael Graham might be right grammatically - (grammatically) to say potential for or actual but I don't think it's too hard to read if we just say potential or actual.

So this doesn't scratch the entire itch of the USG and that's not our mission of course. But what's everyone else think about stopping there versus accepting the rest of what the USG asked for? Which gets into the notion of taking into

account such factors as because we haven't done that I believe with too many other definitions where we delineate all the actual factors as part of our definition.

Berry Cobb: And this is Berry. I believe in terms of those factors, quantity, quality, price and diversity we're achieving that by adding those metrics.

Steve DelBianco: I think so.

Cheryl Langdon-Orr: Yes. Yes.

Steve DelBianco: And I definitely don't want to sort of embrace the overall costs and benefits concept, which we projected earlier.

Man: Yes.

Steve DelBianco: I mean what do folks think? If we just embrace their idea of actual and potential as well as adding all those other metrics, do we feel like that will be the right thing to do? I didn't say placate USG. It's more about whether it's the right thing to do for us.

(Michael): This is (Michael). I think it would be the right thing to do.

Berry Cobb: And this is Berry. Lastly just to clarify in terms of recommended action, the addition of Note 5 we would add that up to where?

Steve DelBianco: Berry, would you just repeat that question?

Berry Cobb: So I think the working group agreed to include the new Note 5 for competition. That would...

Steve DelBianco: Stopping after the word costs. Do not include the last sentence that begins with to determine.

Berry Cobb: Okay. Thank you. All right. I think we beat that one to death. Any other comments before we move on to 56? Okay. And that takes us into our first of our metrics section.

Cheryl Langdon-Orr: Do you want to stop at the metrics or do you want to get the first bit done?

Berry Cobb: Well I think I'm just going to speak for (Steve) here. He'd probably like to soldier on at least for one or two more given...

Cheryl Langdon-Orr: Okay.

Berry Cobb: ...our tight schedule.

Man: Yes.

Cheryl Langdon-Orr: Well fine. Four o'clock to 6:00 am and I do have to get ready to be at a conference by 7:00. But go on.

Berry Cobb: All rightie. So...

Steve DelBianco: Cheryl.

Berry Cobb: ...the first competition metric comment is from Annalisa Rogers. Absolute number in growth rate of registrations of new gTLDs, does the group compare to registrations of the 21 earlier gTLDs as a group? Are both groups increasing in registrations? At what relative rates are they growing? Watch (face) success versus ongoing growth.

Adjustments can be made for global population and Internet penetration figures perhaps also adjusted to relative launch errors to form a study of the two groups, the performance of new gTLDs and the performance of former gTLDs instead of looking at individual TLDs.

Steve DelBianco: I believe we've covered this and I would indicate that our - we have added a metric for weekly registration volume data and leave it at that.

Man: Yes.

Steve DelBianco: How she wants to analyze it later on is fine to her. We're just adding a metric for it.

Man: That's right.

Cheryl Langdon-Orr: Yes.

Berry Cobb: Okay. Moving on to Number 57 also by Annalisa. Percentage of new gTLD applications in both standard and community application groups that were submitted and were able to pass evaluations by remaining in their designations.

And I guess a subset of that is a percentage of new gTLD applications in standard community and brand application groups that met with considerable objection and how often the objections prevailed.

Steve DelBianco: I would recommend that people if you look at the affirmation, the affirmation review 9.3, it calls for two kinds of reviews. One is a review of the evaluation process. And the other was the review of the actual results of the new gTLD expansion.

The Board resolution that formed our group charged us only with the second half. So I would reply to this is that the affirmation review will look at the evaluation - the application evaluation period but that is not part of the Board resolution that chartered this working group.

Berry Cobb: Any other comments with respect to 57?

Steve DelBianco: That make sense?

Cheryl Langdon-Orr: Yes. That's fine.

Man: Yes.

Berry Cobb: And then to meet your halfway Cheryl, we'll stop at - after 58 and...

((Crosstalk))

Berry Cobb: So this is also by Annalisa. Compare many groups of applicants regarding long-term success of new gTLDs delegated. This may measure the importance and relevance of components of the program that could influence the long-term success of new gTLDs.

Groups to be tracked might be described as how they won delegation. The winners of duplicate new gTLD applications that pass technical and financial evaluation at public...

Steve DelBianco: Berry, let's save the time. These are all application process, not part of the Board resolution that chartered our group. So can't we just give the same answer we - for the earlier one? Any of you who are online, bring up the affirmation. I think you'll see what I mean.

Berry Cobb: Olivier, you have your hand raised?

Olivier Crepin-LeBlond: Thank you. It's Olivier for the transcript. I agree with (Steve) that these are all application process things. I'm not sure whether (unintelligible) actually already going to be working on collecting metrics on (those). And I don't know whether this has actually been mentioned.

It might be worth checking with our back channels and find out if this is currently being calculated and traced because that certainly would do well. And I'm sure there must be some kind of metrics kind to keeping - done to do that. If only for ICANN's internal processes in finding out how the next rounds might work out. Thank you.

Berry Cobb: This is Berry. I'll take that action to see if some of that is going on but I'm unsure.

Steve DelBianco: Right. Let's not the fact that we inquired because I don't want to be dismissive of Annalisa even though we were. But let's investigate to see if those data points and metrics are being captured as part of the affirmation - preparing for the affirmation review on the evaluation process.

The Board resolution as I've noted in the chat specifically pointed us only to the definition metrics, the three year targets, the competition (unintelligible) and left aside the entire affirmation review of the application evaluation process and the adequacy or rights protection mechanism safeguards.

Olivier Crepin-LeBlond: If I may add, it's Olivier here for the transcript. I am personally in agreement that these would be very valuable metrics. So I don't think it's a case of dismissing them but it's a case of, in my point of view at least, saying yes they're very (reliable) but they fall outside the (remit) of what we have to work on. We would pass those on as desired metrics maybe for the application process team to deal with.

Berry Cobb: And this is Berry and I'll do just that. I'll find out who the particular lead or point of contact is, most likely (Kurt), and pass along the specific comments and see if they can evaluate whether they're being done or not and any kind of gaps that they didn't think of.

Okay. So Cheryl I lied. Fifty-nine we've already reviewed through and which we've already taken action on; but I had made a mistake early in the process

and included this I think up in the choice section when it belonged down in competition. And the changes in the draft letter have already been made on the 18th of June.

So with that and nine minutes remaining, we'll pick up on Number 60 next week. Or I'm - yes, next week. And we have to go through Number 73, which 71, 72 and 73 are general comments. So if we're diligent on time and everybody shows up, perhaps we can maybe conclude the first pass of these comments.

Steve DelBianco: And with apologies to all, I'll have to submit my ideas for the 24th in writing. I don't think I can be on that call.

Berry Cobb: So with that in mind, Jonathan, I'll - Jonathan Zuck, I'll turn it over to you for final comments and close us out please.

Jonathan Zuck: Well I think all that needs to be said has been said. Let's try to push through this toward the end. And I will, as I said, get in touch with Wendy to try and get an assessment of some clarity in her comments and hopefully some representation of those comments either by her or someone else for one of the upcoming meetings.

Steve DelBianco: Jonathan, I have one other question if I could.

Jonathan Zuck: Yes.

Steve DelBianco: Did anybody pick up feedback at or after Prague on the reports we gave about our working group progress? Are we in trouble or are we doing okay in terms of our...

Jonathan Zuck: My general impression is that we're doing okay and that this is going over a lot smoother than I would have anticipated.

Steve DelBianco: And then within the ALAC, Olivier and Cheryl, you feel like we're on the right track here?

Cheryl Landon-Orr: I think so.

Olivier Crepin-LeBlond: Yes.

Steve DelBianco: Okay. Let's keep at it then.

Olivier Crepin-LeBlond: I think we're doing well. It's laborious but it has to be done.

Berry Cobb: Wait until the real review (Steve).

Olivier Crepin-LeBlond: Nothing for the transcript - it's Olivier here. I am absolutely starving. I've been starving for three hours. Thank you.

Cheryl Langdon-Orr: Oh, poor Olivier.

Jonathan Zuck: Bon appetit.

Cheryl Langdon-Orr: (Unintelligible) and (Natalie), thank you very much. (Natalie), if I may, just thank you - Cheryl here. Thank you very much for raising the complaint with the hotel. I'll also be raising a complaint with the hotel.

(Natalie): Thank you Cheryl.

Cheryl Langdon-Orr: Bye.

Man: Agree.

((Crosstalk))

Steve DelBianco: Thank you every...

END